APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,808	12/08/2000	Danny Chin	DIVA/241	3084

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MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER
NGUYEN, QUANG N

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/733,808	CHIN ET AL.
	Examiner	Art Unit	
	Quang N. Nguyen	2141	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 December 2000_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-19_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-19_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _08 December 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _3-4_.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detail Action

1.   This Office Action is in response to the application SN 09/733,808 filed on 12/08/2000. Claims 1-19 are presented for examination.

Claim Objections

2.   Claim 4 is objected to because of the following informalities:

On line 28 of page 25, "... to said destination module, ..." should be "... to said destination server module, ...".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claim 5 recites the limitation "repeating steps (a) through (c)." in line 2 of page 26. There is insufficient antecedent basis for this limitation in the claim.

5.   Claim 9 recites the limitation "said alternate extent" in line 20 of page 26.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the
United States before the invention thereof by the applicant for patent, or on an international application
by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this
title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7.   Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by

Lumelsky et al. (US 6,377,996), herein after referred as Lumelsky.

8.   As to claim 1, Lumelsky teaches a method for migrating a user from a source

server module *(primary server)* providing a content stream to said user to a destination

server module *(auxiliary server)*, comprising:

determining, for said content stream being provided to said user, a transitional

extent defining an appropriate first extent to be provided to said user via a destination

server module *(i.e., determining parameters on where, when and how to migrate a client

across primary servers and/or auxiliary servers)* (C3:L57 – C4:L3 and C10: L33-48);

determining if said destination server module is capable of providing said

transitional extent to said user within a first time period *(i.e., within a time out period)*

(C10: L16-32 and C11: L53-59); and

causing said destination server module to provide said transitional extent and

subsequent extents associated with said content stream to said user (C11: L7-29).

9.   As to claim 2, Lumelsky teaches the method of claim 1, wherein said first time

period comprises a transitional extent deadline determining the time at which said

transitional extent must be retrieved from a storage device *(i.e., a transitional time out)*

(C10: L55-63 and C11: L42-45).

10.   As to claim 3, Lumelsky teaches the method of claim 1, wherein said second step

of determining comprises the steps of:

communicating at least said transitional extent including a transitional extent deadline to said destination server module (C10: L33-48); and

evaluating a message received from said destination server module, said message comprising one of a rejection, an acceptance and a modified acceptance of a migration of said user to said destination server module (C10: L55-63).

11. As to claim 4, Lumelsky teaches the method of claim 3, wherein in the case of a rejection of the migration of said user to said destination server module, an alternate destination server module is selected (C11: L60-67).

12. As to claim 5, Lumelsky teaches the method of claim 3, wherein in the case of an acceptance message, said method further comprises the steps of determining whether said transition extent deadline has passed; repeating steps (a) through (c) *(i.e., if the hand-off proceed message was not received and a time out was taken, the processing returns to step 1000 to receive more signals)* (C12: L42-45).

13. As to claim 6, Lumelsky teaches the method of claim 5, wherein in response to said transitional extent deadline not having passed, stopping output and sending a trigger message to said destination server module (C11: L17-29).

14.   As to claim 7, Lumelsky teaches the method of claim 6, further comprising the

step of waiting for a response message from said destination server module *(i.e., the*

main/primary server waiting for an acceptance or denial of service for the hand-off

request from the target server); and in response to an error indicative response

message, selecting an alternative destination server module *(i.e., in case of a denial of*

service for the hand-off request from the target server, the process returns to step 990

to select an alternative server) (C10: L55-63 and C11: L60-67).

15.   As to claim 8, Lumelsky teaches the method of claim 3, wherein in response to a

modified acceptance message, said method performs the steps of:

selecting a new transition extent in the case of said modified acceptance being

appropriate *(i.e., facilitating the negotiation of a common start point)*; and selecting an

alternative destination server module if said modified acceptance is inappropriate (C14:

L17-49).

16.   As to claim 9, Lumelsky teaches the method of claim 4, wherein said alternate

extent is selected to cause a repetition in content preparation *(i.e., facilitating the*

negotiation of a common start point could cause a repetition in content preparation).

17.   As to claims 10-11, Lumelsky teaches the method of claim 1, wherein said

transitional extent is entered at an extent boundary *(i.e., the market insertion unit 406*

prepares and formats the segmentation markers 408, 410, 414 and inserts them among

the frames 418 of the original stream 416) and including an asserted discontinuity flag

(i.e., an End Marker Flag) (Figs. 6-7 and C8: L29-59).

18.   As to claims 12-14, Lumelsky teaches the method of claim 1, wherein said

transitional extent is determined with respect to a packet offset parameter comprising an

asserted discontinuity flag *(i.e., an End Marker Flag)* in a header portion of said

transitional offset packet (Fig. 7 and C8: L60-64).

19.   Claims 15-16 are corresponding receiving method claims of migrating method

claims 1-8; therefore, they are rejected under the same rationale.

20.   Claims 17-19 are corresponding apparatus claims of method claims 1-8;

therefore, they are rejected under the same rationale.

21.   Further references of interest are cited on Form PTO-892, which is an

attachment to this office action.

22. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.
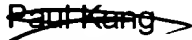
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

Quang N. Nguyen
Examiner

Paul Kang
Primary Examiner